

108TH CONGRESS
1ST SESSION

H. R. 3541

To provide authority to prevent human rights violations by controlling certain exports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2003

Mr. LANTOS introduced the following bill; which was referred to the
Committee on International Relations

A BILL

To provide authority to prevent human rights violations by
controlling certain exports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Implements of Torture
5 Export Control Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) In 1984, the United Nations General As-
9 sembly adopted the Convention Against Torture and
10 Other Cruel, Inhuman, or Degrading Treatment or

1 Punishment. The United States ratified the Conven-
2 tion in 1994, which defines torture as acts delib-
3 erately perpetrated by or with the approval of gov-
4 ernment officials, which are designed to inflict ex-
5 treme physical or psychological suffering.

6 (2) Torture has devastating, long-term con-
7 sequences, not only for survivors, but also for their
8 families, friends, and communities. Survivors' rela-
9 tionships with others suffer greatly because of the
10 distrust and sense of alienation from humanity that
11 the torture has engendered.

12 (3) Amnesty International reports that there
13 are over 117 countries in the world which engage in
14 or condone torture. It is estimated that over
15 500,000 victims of foreign governmental torture live
16 in the United States.

17 (4) Mechanical restraints, such as handcuffs,
18 leg irons, shackles, and thumbcuffs, are some of the
19 most widely used security devices; they are also
20 widely abused as implements of torture.

21 (5) Equipment designed for legitimate law en-
22 forcement purposes can be misused to suppress free-
23 dom and commit human rights violations, particu-
24 larly in countries where police authorities are used
25 to monitor and harass human rights activists, oppo-

1 sition political figures, and others and where there
2 are political or free expression “crimes”.

3 (6) Many devices intended for crime control
4 purposes, such as electro-shock discharge devices,
5 are especially susceptible to abuse as implements of
6 torture.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) MAJOR NON-NATO ALLIES.—The term
10 “major non-NATO ally” means any country des-
11 ignated as a major non-Nato ally under section 517
12 of the Foreign Assistance Act of 1961 (22 U.S.C.
13 2321k).

14 (2) SECRETARY.—The term “Secretary” means
15 the Secretary of Commerce.

16 (3) ACT OF TORTURE.—The term “act of tor-
17 ture” means any act committed by a person acting
18 under the color of law that is specifically intended
19 to inflict severe physical or mental pain or suffering
20 (other than pain or suffering incidental to a lawful
21 sanction) upon another person within the custody or
22 physical control of the person performing the act.

23 (4) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means the Committee on International Re-

lations of the House and the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs of the Senate.

SEC. 4. LICENSING OF CRIME CONTROL EQUIPMENT.

(a) IN GENERAL.—Except as provided in subsection (b), crime control and detection instruments and equipment shall not be approved for export by the Secretary except pursuant to an individual export license.

(b) EXCEPTION.—Subsection (a) shall not apply to exports to any country that is a member of the North Atlantic Treaty Organization or is a major non-NATO ally.

SEC. 5. LIMITATION ON EXPORTS.

(a) IN GENERAL.—

(1) COUNTRY RESTRICTION.—The Secretary shall not approve the export to a country of the following items if the government of that country, or any group supported by or acting on behalf of that government, as determined by the Secretary of State, has repeatedly engaged in acts of torture:

(A) Crime control and detection instruments.

(B) Equipment especially susceptible to abuse as implements of torture.

(2) DETERMINATION BY THE SECRETARY OF STATE.—The Secretary may not permit the export

1 to any country of any item to which paragraph (1)
2 applies unless and until the Secretary of State deter-
3 mines that the government of that country, and, if
4 applicable, any group supported by or acting on be-
5 half of that government, has not repeatedly engaged
6 in acts of torture for the 12-month period preceding
7 the date of the application to export the item.

8 (b) END-USER EXCEPTION.—Notwithstanding sub-
9 section (a), the Secretary, with the concurrence of the Sec-
10 retary of State, may approve the export of any item to
11 which subsection (a) applies if the Secretary of State de-
12 termines that the end user of the item proposed for export
13 has not engaged in acts of torture.

14 (c) NOTIFICATION.—

15 (1) DETERMINATIONS UNDER SUBSECTION
16 (a)(2).—The Secretary of State shall, not later than
17 5 days after a determination under subsection (a)(2)
18 is made, report that determination to the appro-
19 priate congressional committees.

20 (2) LICENSES UNDER SUBSECTION (b).—If an
21 export license is approved under subsection (b), the
22 Secretary and the Secretary of State shall, within 5
23 days after the granting of the export license, notify
24 the appropriate congressional committees of the
25 identity of the end-user and the determination made

1 by the Secretary of State under that subsection with
2 respect to the end user.

3 **SEC. 6. PROHIBITION ON EXPORT.**

4 Notwithstanding any other provision of this Act, the
5 export of the following items shall be prohibited to all des-
6 tinations:

7 (1) Any leg irons, handcuffs, and thumbcuffs
8 that have sharp or serrated edges.

9 (2) Saps, blackjacks, brass knuckles, and other
10 easily concealed devices designed to administer se-
11 vere blows to the body.

12 (3) Electroshock stun belts.

13 (4) Items specially designed as implements of
14 torture.

15 (5) Batons or clubs fitted with spikes or other
16 hard protuberances.

17 (6) Components produced for incorporation into
18 these items and the technology used for the develop-
19 ment or production of these items.

20 **SEC. 7. ESTABLISHMENT OF CONTROL LIST.**

21 The Secretary shall establish and maintain, with the
22 concurrence of the Secretary of State, a list of—

23 (1) crime control and detection instruments;
24 and

1 (2) equipment especially susceptible to abuse as
2 implements of torture.

3 The Secretary shall publish the list in the Federal Reg-
4 ister.

5 **SEC. 8. EXPORT LICENSE REVIEW.**

6 (a) CONSULTATION.—In addition to the Secretary of
7 State, the Secretary shall ensure that the head of all ap-
8 propriate agencies are fully consulted before an individual
9 export license is granted under section 4.

10 (b) ROLE OF SECRETARY OF STATE.—

11 (1) REVIEW OF LICENSE.—Any determination
12 by the Secretary to approve or deny an export li-
13 cense application to export crime control or detection
14 instruments or equipment shall be made in concur-
15 rence with the recommendations of the Secretary of
16 State.

17 (2) REVIEW WITHIN THE DEPARTMENT OF
18 STATE.—The Secretary of State shall ensure that
19 the responsible official of the Bureau of Democracy,
20 Human Rights and Labor is fully involved in review-
21 ing proposed export licenses under paragraph (1).

○